

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12<sup>th</sup> STREET SW**  
**WASHINGTON DC 20554**

MEDIA BUREAU  
AUDIO DIVISION  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: [www.fcc.gov/mb/audio](http://www.fcc.gov/mb/audio)

PROCESSING ENGINEER: Arthur E. Doak  
TELEPHONE: (202) 418-2715  
FACSIMILE: (202) 418-1410  
MAIL STOP: 1800B3-AED  
INTERNET ADDRESS: [arthur.doak@fcc.gov](mailto:arthur.doak@fcc.gov)

February 6, 2007

Southern Nevada Educational Broadcasters  
3185 South Highland Drive  
Suite 13  
Las Vegas, NV 89109

In re: KVKL(FM), Las Vegas, NV  
Facility ID No.: 88719  
Southern Nevada Educational  
Broadcasters ("SNEB")  
BPED-20061205ACJ

Dear Applicant:

This letter is in reference to the above-captioned minor change application to change the effective radiated power, antenna height, class and install a directional antenna. SNEB requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant SNEB's waiver request and the application.

**Waiver Request**

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 73.509 with respect to the following stations: (1) the licensed facility (BLED-19850819KW) of third adjacent channel Class C FM Station KSOS(FM), Las Vegas, Nevada, Facility ID No. 20528 on Channel 213C; and (2) the licensed facility (BLED-19840906DM) of second adjacent channel Class C1 FM Station KUNV(FM), Las Vegas, Nevada, Facility ID No. 68921 on Channel 218C1. In each instance, the proposed 60 dBu protected contour would encompass the 100 dBu interfering contour from the facilities listed above. SNEB recognizes these violations and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, SNEB states that it will not cause interference to the above facilities. SNEB claims that the grant of this waiver will allow KVKL to extend its overall 60 dBu coverage area by 2,127 square kilometers, an increase of 49.4%. In addition, SNEB states that it will provide new service to an estimated 901,429 persons, a significant increase over KVKL's current 60 dBu population of 6,351 persons.<sup>1</sup> SNEB also indicates that this benefit heavily outweighs the potential for interference in a total area that constitutes 7.4% of the station's proposed 60 dBu service area. Furthermore, SNEB argues that the overlap area is small and well within the scope of the Commission's waiver policy. Moreover, SNEB claims that this waiver request is nearly identical to the requests made by the licensees of WCPE(FM) and WCCE(FM) in *Educational Information Corporation*, 6 FCC Rcd 2207 (1991). Accordingly, SNEB concludes that a waiver of Section § 73.509(a) of the Commission's rule is justified in this instance.

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<sup>1</sup> This is an increase of 140.9%.

SNEB's request to receive second and third adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that case it was stated that:

The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license.

Accordingly, in light of the Commission's policy on this matter, the requested waiver of 47 C.F.R. § 73.509 will be granted.

### Conclusion

We have afforded the request for waiver of §73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification is sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, SNEB's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, Application File No. BPED-20061205ACJ IS HEREBY GRANTED subject to the following conditions:

Further modification of KSOS(FM), Las Vegas, Nevada (Facility ID No. 20528) will not be construed as a *per se* modification of KVKL's construction permit (BPED-20061205ACJ). (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

Further modification of KUNV(FM), Las Vegas, Nevada (Facility ID No. 68921) will not be construed as a *per se* modification of KVKL's construction permit (BPED-20061205ACJ). (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

*Arthur E. Doak*

Arthur E. Doak  
Senior Engineer  
Audio Division  
Media Bureau

cc: Irwin, Campbell & Tannenwald, P.C.  
Ms. Linda Adams